

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/740,584
Filing Date: December 18, 2000
Applicant: Jeffrey Morgan Alden et al.
Group Art Unit: 2815
Examiner: Eugene Lee
Title: AUTOMATIC RECONFIGURATION OF
SYSTEM SUB-MODELS FOR INDEPENDENT
ANALYSIS
Attorney Docket: GP-301022

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Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR §1.181

Sir:

Pursuant to 37 CFR §1.181 and MPEP 1205.03, Applicant hereby petitions that the Examiner's Notification of Non-Compliant Appeal Brief mailed June 18, 2008 is improper. Applicant is submitting their Second New Appeal Brief in response to that Notice to comply with the requirements of 37 CFR §41.37(d). The first paragraph under the Summary of the Claimed Subject Matter section has been added to the Brief.

Applicant filed their first Appeal Brief on August 11, 2005, and an Examiner's Answer in response thereto was mailed on December 1, 2005. The Board of Patent Appeals remanded the Examiner's Answer to the

Examiner on August 31, 2006. Over a year later, the Examiner reopened prosecution by an Office Action mailed December 31, 2007. Applicant filed their New Appeal Brief in response thereto on March 28, 2008. The Examiner then mailed the Notification of Non-Compliant Appeal Brief on June 18, 2008 that is the subject of this Petition.

MPEP 1205.02, under the Summary of the Claimed Subject Matter section, states that a precise explanation of the subject matter defined in each of the independent claims involved in the appeal is required that refers to the specification by page and line number and to the drawings and reference characters. That section of the MPEP goes on to state that this detail, "is considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application." Applicant respectfully submits that because the Board has already reviewed the Summary of the Claimed Subject Matter section of the original Brief prior to remanding it back to the Examiner, and did not request additional detail in the Summary of the Claimed Subject Matter section, then the Board was fully satisfied with what was discussed in that section of the Appeal Brief and was able to understand what was being claimed. Therefore, Applicant submits that it is improper for the Examiner to now hold that the Summary of the Claimed Subject Matter section of the Brief is non-compliant.

Moreover, Applicant respectfully submits that it is improper for the Examiner to state that the claims 13-19 has not been sufficiently described if the method claims 1-12 are sufficiently described. Independent claim 13 parallels independent claim 1 except that it is a "means for" claim. The specification clearly describes the method as being performed by a computer

as claimed. Therefore, Applicant submits that the structural features of a suitable computer system is sufficient for the Summary of the Claimed Subject Matter section of the Brief to be compliant for claims 13-19 if it is compliant for claims 1-12.

In view of the foregoing, it is respectfully requested that an Examiner's Answer be provided in a timely manner so that the merits of this application can be considered.

Respectfully submitted,

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